IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR. JUSTICE P.S.NARAYANA

WRIT PETITION NO : 11437 of 2004

Between:

1. The Chief Executive Officer, Zilla Parishad, Adilabad
2. The Audit Officer, Local Fund Audit, Government of A.P.,

Hyderabad

. PETITIONERS

AND

Sri P. Narayana, Retired Superintendent, Zilla Parishad, Adilabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ Certiorari and calling for the records relating to the order passed in O.A. No. 7388/1999, dated 11-11-2003 on the file of Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent : M/s Y.Venkat Sastry

The Court made the following :

-

-

-

-

-

-

ORDER: (Per Honourable Sri G.Bikshapathy)_

The Writ petition is filed by the Government challenging the order passed by the A.P.Administrative Tribunal, Hyderabad in O.A.No.7388 of 1999, dated 11-11-2003.

2. The applicant before the Tribunal was retired from service but however a sum of Rs.11,625/- was withheld towards D.C.R.G. without appropriate authority. Therefore, he filed O.A.No.7388 of 1999 seeking refund of the same.

3. The Tribunal after admitting the matter held that the respondents themselves have fully conceded the claim of the applicant and the pay fixation given to the applicant is in order and it is in accordance with the Government orders issued by the Finance Department and accordingly allowed the O.A.

4 The learned Government pleader submits that the very release of two benefits one under 22 years scheme and the other under 8 years scheme, is contrary to the G.O. issued by the Government and therefore, the Tribunal ought to have permitted the authorities to withhold the aforesaid sum.

5. We have heard the learned counsel for the respondent.

6. We cannot accept the contention of the learned Government Pleader. The Tribunal has discussed the issue in paragraphs-3, 4 and 5, which are extracted below:

> *"3. The claim of the applicant was square-conceded by the Chief Executive Officer, Z.P. in the counter filed wherein it was stated by him that 'in view of the above the contention of Audit Officer, Local Fund, Adilabad to object the applicant special grade post pay in higher cadre is not correct. The fixation sanctioned by the 1st respondent is correct in the light of instructions issued in G.O.Ms.No.75, F &P Dt.22.2.1994."*
>
> 4. *In the counter, it was also conceded that " the SPP scale_ II of Rs.1330-2630 in the cadre of Junior Assistant and award of Special grade post scale in the Senior Assistant on completion of (10) years in the cadre of Senior Assistant to the applicant are correct as per the orders issued in G.O.Ms.No.117, F&P*

Dt.25.5.1981 read with G.O.Ms.No.2 F&P Dt.4.1.1988."

5.Thus, as the respondents themselves have fully conceded the claim of the applicant and held that the pay fixation given to the applicant is in order and it is in accordance with the Government orders issued by the Finance Department, necessarily this O.A. is to be allowed and it is accordingly allowed with a direction to the respondents to release all the pensionary benefits due to the applicant as per the pay fixation already made by the Chief Executive Officer, Zilla Parishad, Adilabad. Al the retrial benefits should be released within three months from the date of receipt of a copy of this order, along with 9% interest w.e.f. 1.2.2000 i.e., after a gap of three months from the date of his retirement i.e., 31.10.1999. No costs."

7. In view of the aforesaid order, we do not find any illegality or irregularity in the order of the Tribunal.

8. Accordingly, the Writ Appeal is dismissed. No costs.

(G.BIKSHAPATHY, J)

(P.S.NARAYANA, J)

23rd November, 2004

dvs

To

1. The Chief Executive Officer, Zilla Parishad, Adilabad
2. The Audit Officer, Local Fund Audit, Government of A.P.,

Hyderabad

3. The Registrar, A.P. Administrative Tribunal, Hyderabad.

4. Two C.Cs. to the Government Pleader for Services_II, High

Court Buildings, A.P.Hyderabad.

5. Two C.D copies.

THE HON'BLE MR. JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR. JUSTICE P.S.NARAYANA

-

-

-

-

-

-

-

-

-

-

WRIT PETITION NO : 11437 of 2004

-

-

-

-

-

-

-

-

-

-

-

Dated 23rd November, 2004